

Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 MANILA 13573

E.O. 11652: GDS

TAGS: SHUM, RP

SUBJECT: CONGRESSIONAL HEARINGS ON AI REPORT

REF: STATE 214513

BEGIN SUMMARY: THIS MESSAGE REVIEWS GOP'S COMPLIANCE WITH 15 AMNESTY INTERNATIONAL RECOMMENDATIONS AS REQUESTED REFTEL. GOP HAS IMPLEMENTED NO RECOMMENDATION IN ITS ENTIRETY BUT HAS MADE SOME EFFORT IN A FEW AREAS. EMBASSY BELIEVES AI REPORT BALANCED AND ACCURATE AND THAT SOME TORTURE IS STILL GOING ON. BY PREVAILING HUMAN RIGHTS STANDARDS, GOP RECORD REMAINS AT BEST FAIR -- NOT THE WORST, BUT STILL IN NEED OF MUCH IMPROVEMENT. END SUMMARY.

1. RE PARA 2 REFTEL REUESTING EMBASSY JUDGMENT ON GOP IMPLEMENTATION OF AI RECOMMENDATIONS, FOLLOWING IS SPECIFIC BREAKDOWN OF RECOMMENDATIONS AND GOP RESPONSE.

(1) RECOMMENDATION FOR IMMEDIATE AND FULL INQUIRIES INTO THE CASES OF ALL PRISONERS LISTED IN REPORT AS HAVING BEEN TORTURED. GOP HAS NOT CONDUCTED SUCH AN INVESTION NOR HAS IT ESTABLISHED OPEN COMMISSION OF INQUIRY TO INVESTIGATE TORTURE CHARGES AS AI REQUESTS.

(2) RECOMMENDATION THAT GOP INSTITUTE INQUIRY INTO ACTIVITIES OF 85 OFFICERS LISTED IN THE RPORT AS HAVING EMPLOYED TORTURE. THERE IS NO EVIDENCE GOP HAS TAKEN ANY ACTION AGAINST ANY OF THESE 85 INDIVIDUALS ALTHOUGH SOME MILITARY FACE COURT MARTIAL CHARGES FOR DETAINEE

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MALTREATMENT.

(3) RECOMMENDATION THAT ALL PRISONERS LISTED IN THE REPORT BE RELEASED ON BAIL PENDING TRIAL. GOP HAS NOT DONE THIS ALTHOUGH CERTAIN INDIVIDUALS NAMED IN REPORT HAVE BEEN FREED. IN JULY, PRESIDENT MARCOS DIRECTED TRIALS FOR ALL DETAINEES FACING CHARGES BEFORE MILITARY TRIBUNALS BY FIRST WEEK OF AUGUST. SO FAR AS WE ARE AWARE, ONLY AQUINO CASE HAS COME TO TRIAL.

(4) RECOMMENDATION THAT ALL DEFENDANTS IN TRIALS WHO HAVE BEEN TORTURED SHOULD BE RELEASED PRIOR TO INVESTIGATION OF TORTURE CHARGES. GOP HAS NOT IMPLEMENTED THIS RECOMMENDATION.

(5) RECOMMENDATION THAT PRISONERS BE TRIED BY CIVIL COURTS AND NOT BY MILITARY TRIBUNALS. PRESIDENT MARCOS HAS SPOKEN OF EVENTUAL ABOLITION OF MILITARY TRIBUNALS, BUT NO ACTION HAS BEEN TAKEN YET TO ACHIEVE THIS. SECRETARY ENRILE RECENTLY TOLD THE AMBASSADOR THE TRIAL OF EUGENIO LOPEZ III WOULD BE TRANSFERRED TO A CIVIL COURT.

(6) RECOMMENDATION THAT FAMILY OF PRISONERS SHOULD BE NOTIFIED OF THEIR DETENTION AND ALLOWED TO VISIT WITHIN 72 HOURS AS WELL AS DETAINEES HAVE FREE ACCESS TO LAWYERS. SECRETARY OF DEFENSE ENRILE, ISSUED DIRECTIVE JUNE 27, PARTIALLY IMPLEMENTING THIS RECOMMENDATION, BUT WE HAVE NO WAY OF KNOWING TO WHAT EXTENT IT HAS BEEN CARRIED OUT. (2SEE MANILA 9343.)

(7) RECOMMENDATION THAT WRIT OF HABEAS CORPUS BE RESTORED. GOP HAS NO INTENTION OF RESTORING THIS RIGHT WHICH IS SUSPENDED UNDER MARTIAL LAW.

(8) RECOMMENDATION THAT UNITS INVOLVED IN ARRESTS AND INTERROGATION OF PRISONERS KEEP COMPLETE RECORDS AND THAT SAFE-HOUSES BE ELIMINATED. ON JUNE 27, SECRETARY ENRILE DIRECTED THAT COMPUTE LISTING OF ALL DETAINEES BE COMPILED. AS FAR AS WE ARE AWARE, SAFE-HOUSES ARE STILL BEING USED.

(9) RECOMMENDATION THAT GOVERNMENT ADOPT AND PUBLISH CODE OF TREATMENT OF POLITICAL PRISONERS AND EMPHASIZE TO ALL WHO DEAL WITH PRISONERS THAT TORTURE IS ILLEGAL. GOP HAS TAKEN NO SPECIFIC ACTION ON THIS RECOMMENDATION, ALTHOUGH IT CONTAINS THAT STRONGURES AGAINST TORTURE ARE GOVERNMENT SOP.

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(10) RECOMMENDATION THAT ALL PRISONERS HELD FOR MORE THAN ONE YEAR WITHOUT CHARGES BE GRANTED PRESIDENTIAL AMNESTY. THERE HAS BEEN NO PRESIDENTIAL AMNESTY, ALTHOUGH SOME INDIVIDUAL DETAINEES LISTED IN AI REPORT HAVE BEEN RELEASED. ON SEPTEMBER 2 SECRETARY ENRILE ORDERED THE RELEASE OF 16 DETAINEES AT CAMP OLIVAS IN PAMPANGA. PAN REPORTED SOME HAVE BEEN THERE MORE THAN FOUR YEARS BUT NONE APPEARS ON THE LIST OF DETAINEES

INTERVIEWED BY AMNESTY.

(11) RECOMMENDATION CERTAIN IMMIGRANT/DEPORTATION CASES (MOSTLY OLDER ETHNIC CHINESE) BE RESOLVED AND THEIR DEPLORABLE LIVING CONDITIONS BE IMPROVED. WE HAVE NO EVIDENCE THAT GOP HAS APPROACHED UNHCR TO SETTLE THESE CASES AS AI RECOMMENDED.

(12) RECOMMENDATION THAT WOMEN PRISONERS, ESPECIALLY THOSE WITH YOUNG CHILDREN, BE RELEASED IMMEDIATELY. GOP HAS RELEASED TO HOSPITALS OR TO THEIR HOMES ALMOST ALL FEMALE DETAINEES WITH YOUNG CHILDREN.

(13) RECOMMENDATION THAT DETAINEES NOT BE CONFINED WITH ORDINARY CRIMINALS. GOP SEEMS TO BE MAKING AN EFFORT ON THIS FRONT, PARTICULARLY AT THE BICUTAN REHABILITATION CENTER.

(14) RECOMMENDATION THAT MEMBERS OF THE HILAO FAMILY BE GIVEN UNCONDITIONAL AMENESTY AND THAT AN INDEPENDENT INQUIRY BE CONDUCTED ON THE DEATH OF LILIOSA HILAO. AS FAR AS WE ARE AWARE, GOP HAS NOT IMPLEMENTED THIS RECOMMENDATION.

(15) RECOMMENDATION THAT GOP UNDERTAKE NECESSARY STEPS TO INSURE FULL IMPLEMENTATION OF UN DECLARATION ON THE PROTECTION OF ALL PERSONS FROM TORTURE AND OTHER CRUEL, INHUMANE OR DEGRADING TREATMENT OR PUNISHMENT. GOP HAS TAKEN NO SPECIAL STEPS IN THIS REGARD. BUT CLAIMS IT IMPLEMENTS IT AS MATTER OF COURSE.

2. REVIEW OF RECOMMENDATIONS SUGGESTS THAT GOP COMPLIANCE WITH SPECIFIC AI RECOMMENDATIONS HAS BEEN ALMOST MINIMAL. IN CERTAIN RECOMMENDATIONS, EG (7) THIS UNDERSTANDABLE SINCE COMPLIANCE GOES AGAINST ENTIRE MARTIAL LAW SYSTEM. IF GOP RECORD OF COMPLIANCE WERE BETTER, WE HAVE NO DOUBT IT WOULD FIND SOME WAY OF GETTING WORD TO AI PRIOR TO SEPTEMBER 15 HEARING. WE UNDERSTAND CONFIDENTIAL

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FROM SOME SOURCES GOP ESPECIALLY DISTURBED BY AI REPORT SINCE IT BELIEVED IT HAS BEEN EXTREMELY ACCOMMODATING (WHICH INDEED IT HAD) IN ALLOWING AI REPS ACCESS TO GOP OFFICIALS AND DETAINEES. FYI - TIME

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C O N F I D E N T I A L SECTION 2 OF 2 MANILA 13573

MAGAZINE REPORTER TOLD EMBOFF SEPTEMBER 1 THAT WHEN HE OBTAINED A COPY OF AI REPORT IN HONG KONG PREPARATORY OF TIME ASIAN EDITION COVER STORY ON TORTURE THROUGH-OUT THE WORLD, HE ASKED GOP (INFORMATION SECRETARY TATAD) FOR COMMENT. GOP WITHIN A MATTER OF HOURS PRODUCED LONG REPLY, APPARENTLY DRAFTED BY SECRETARY ENRILE HIMSELF. GIST OF REPLY, HOWEVER, WAS THAT ALLEGATIONS OF TORTURE CAME PRIMARILY FROM COMMUNIST OR COMMUNIST SYMPATHIZERS. END FYI.

3. REF PARA 3(A). IS AI REPORT BALANCED AND ACCURATE? EMBASSY BELIEVES REPORT IS BOTH ASSENTIALLY BALANCED AND ACCURATE, ALTHOUGH MANY INTERVIEWED WERE NPA-CONNECTED AND ONE CAN QUESTION WHETHER THEY COME STRICTLY UNDER POLITICAL PRISONER RUBRIC. AI INVESTIGATORS DID NOT HAVE OPPORTUNITY TO VISIT AREAS OUTSIDE LUZON. HAD THEY VISITED THESE AREAS, WE SUSPECT THEIR REPORT MIGHT HAVE BEEN MORE CRITICAL SINCE REPORTS OF TORTURE, MALTREATMENT, TEC., BECOME MORE COMMON THE FARTHER ONE GETS FROM MANILA.

4. REF PARA 3(B). IS TORTURE CONTINUING? AS EMBASSY NOTED IN ITS REPORT ON AMRSP STUDY ON POLITICAL DETAINEES, WHICH PROVIDED A BASIS FOR AI REPORT (SEE MANILA 5973), MANY OF THE TORTURE CASES LISTED IN THAT REPORT AND AI REPORT TOOK PLACE IN 1974 OR EARLY 1975 PRIOR TO DE LA TORRE CASE. WE NOTE, HOWEVER, THAT IN AN UPDATED LIST OF POLITICAL PRISONERS PUBLISHED BY THE AMRSP DETAINEES
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COMMITTEE AUGUST 15 (POUCHED EA/PHL) THAT IN THE CASE OF 35 PEOPLE ARRESTED IN THE PERIOD JANUARY TO APRIL 1976, 18 ARE NOTED AS HAVING BEEN TORTURED OR MALTREATED. AGAINST MOST OF THESE CASES APPEAR TO HAVE BEEN INDIVIDUALS ASSOCIATED WITH THE NPA. ICRC TEAM WHICH VISITED HERE

IN JULY, ALSO SEEMED TO HAVE FOUND EVIDENCE OF TORTURE AND MALTREATMENT (SEE MANILA 10591). IN MARCH 1976, THE BISHOP OF ILIGAN PROTESTED THE ARREST OF 12 MEN AND WOMEN THREE OF WHOM WERE REPORTEDLY TORTURED BY MILITARY IN SAFEHOUSES. DEPARTMENT IS ALSO FAMILIAR WITH MAY 3 TESTIMONY OF REV. LAROLD SCHULZ OF UNITED CHURCH OF CHRIST BEFORE FRASER SUBCOMMITTEE DETAILING TORTURE OF DETAINEES HE INTERVIEWED DURING VISIT TO PHILIPPINES.

5. REF PARA 3(C). PUNISHMENT OF AFP PERSONNEL INVOLVED IN TORTURE. IN JANUARY, SOLICITOR GENERAL MENDOZA TOLD THE EMBASSY THAT TWO ENLISTED MEN INVOLVED IN TORTURE OF PRISONERS HAD BEEN TRANSFERRED AND INVESTIGATION WAS PROCEEDING IN ONE CASE OF A LT. COL. (SEE MANILA 687). IN JUNE, UNDERSECRETARY OF DEFENSE BARBERO SAID 12 MILITARY PERSONNEL WERE FACING COURT MARTIAL BECAUSE OF THEIR INVOLVEMENT IN DETAINEE MALTREATMENT (MANILA 8748). WE HAVE NO EVIDENCE OF FOLLOW-UP IN EITHER OF THESE CASES AND ARE UNABLE TO DETERMINE WHETHER THERE HAS BEEN ANY DISCIPLINARY ACTION. THERE WAS A SIMILAR SPATE OF ACTIVITY INVOLVING SOME LOW-LEVEL MILITARY IN EARLY 1975, PRIMARILY AS A REACTION TO CHARGES OF TORTURE IN THE DE LA TORRE CASE, BUT THERE WAS NO FOLLOWUP. FRANKLY, WE WOULD BE SURPRISED IF ANY SERIOUS DISCIPLINARY ACTION WERE TAKEN AGAINST MILITARY PERSONNEL ALLEGED TO HAVE BEEN INVOLVED IN DETAINEE MALTREATMENT DESPITE SECRETARY ENRILE'S KNOWN ABHORRENCE OF THIS PRACTICE.

6. REF PARA 3(D). EMBASSY HAS RECEIVED TORTURE ALLEGATIONS FROM OTHER SOURCES, PRIMARILY PRIESTS AND RELIGIOUS WORKING WITH THE AMRSP DETAINEES COMMITTEE. THESE SOURCES MAINTAIN TORTURE IS STILL GOING ON IN SAME-HOUSES AND IS ADMINISTERED PRIMARILY BY MEMBERS OF THE INTELLIGENCE ORGANIZATION NOT RESPONSIBLE OR RESPONSIBLE.

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SIVE TO AFP DIRECTION. ON A FEW OCCASIONS, EMBOFFS HAVE TALKED TO FORMER DETAINEES WHO HAVE CLAIMED THEY WERE MALTREATED. IN EVALUATING ALLEGATIONS OF TORTURE, HOWEVER, IT IS WELL TO REMEMBER THAT CERTAIN DETAINEES, PARTICULARLY THOSE ASSOCIATED WITH THE NPA, HAVE EVERY REASON TO MAGNIFY EXTENT AND INTENSITY OF THEIR MALTREATMENT IN ORDER TO EMBARRASS GOVERNMENT. AMRSP DETAINEES COMMITTEE IS CERTAINLY MOST KNOWLEDGEABLE ORGANIZATION IN PHILIPPINES WHEN IT COMES TO DETAINEE QUESTIONS, BUT IT HAS DISTINCT ANTI-MARTIAL LAW BIAS AND IS ALWAYS PREPARED TO BELIEVE THE WORST OF THE MARTIAL LAW REGIME.

7. REF PARA 3(E). EMBASSY HAS SOME FILES ON MORE PROMINENT DETAINEES, E.G. ACADEMICIANS ALLEGED TO HAVE BEEN ASSOCIATED WITH NPA, BUT MAJORITY OF THOSE MALTREATED OR TORTURED ARE LITTLE PEOPLE WHOSE NAMES ORDINARILY DO NOT FIND THEIR WAY INTO EMBASSY BIO FILES.

8. IN SUM, WE BELIEVE GOP HAS NOT REPEAT NOT MADE ANY MAJOR EFFORT TO IMPLEMENT AMNESTY INTERNATIONAL'S RECOMMENDATIONS. INDEED, VERY NATURE OF MARTIAL LAW REGIME MAKES IMPLEMENTATION OF SOME RECOMMENDATIONS IMPOSSIBLE. TORTURE HAS TAKEN PLACE IN THE PAST AND PROBABLY, QUITE RECENTLY. EMBASSY'S JUDGEMENT, EXPRESSED IN HUMAN RIGHTS REPORT (MANILA A-76) REMAINS UNCHANGED. WE BELIEVE INSTANCES OF TORTURE AND MALTREATMENT REPRESENT ABERRATIONS AND ARE NOT THE RESULT OF EXPLICIT GOVERNMENT POLICY AT THE POLITICAL LEVEL. CONDITIONS/ATMOSPHERE OF MARTIAL LAW, HOWEVER, HELP TO NURTURE TORTURE PRACTICE. WE ASSUME SOME HIGH-RANKING OFFICIALS ARE AWARE OF THESE VIOLATIONS WHICH STEM FROM "I WANT RESULTS BUT DON'T TELL ME HOW YOU GET THEM" ATTITUDE, PARTICULARLY IN THE CASE OF CAPTURED NPA. OPPOSITION LEADER SENATOR SALONGA SUPPORTED THIS OBSERVATION IN RECENT CONVERSATION WITH EMBOFFS (SEE SALONGA/WENZEL/SALMON MEMCON OF AUGUST 6, 1976) WHEN HE NOTED THAT OFFICERS OFTEN LEFT DETAINEES TO NOT SO TENDER MERCIES OF LOWER-RANKING MILITARY, MANY OF WHOM HAD TO DRINK TO BE ABLE TO INFLICT THE TORTURE.

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9. GOP HAS PERMITTED ITS "HOSPITALITY" TO CLOUD ITS JUDGMENT AND SEEMS TO BELIEVE THAT MERELY ALLOWING OUTSIDE GROUPS LIKE AMNESTY, ICJ, ICRC, ETC. INTO THE COUNTRY AUTOMATICALLY INSURES IT AGAINST CANDID EVALUATION OF ITS RECORD AND AGAINST NEED TO IMPROVE ITS HUMAN RIGHTS PRACTICES. BY PREVAILING INTERNATIONAL HUMAN RIGHTS STANDARDS, WE CONTINUE TO BELIEVE THAT GOP RECORD IS AT BEST FAIR -- NOT THE WORST, BUT STILL IN NEED OF MAJOR IMPROVEMENT.
SULLIVAN

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